

106TH CONGRESS
2D SESSION

H. R. 4951

To amend part C of title XVIII to stabilize the Medicare+Choice Program by improving the methodology for the calculation of Medicare+Choice payment rates, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2000

Mr. GREENWOOD (for himself, Mr. DOOLEY of California, Mr. SHERWOOD, Mr. BAKER, Mr. PETERSON of Minnesota, Mr. ENGLISH, Mr. TOOMEY, Mr. HOBSON, Mr. TAUZIN, Mr. FOLEY, Mr. HOLDEN, Mr. PETERSON of Pennsylvania, Mr. BRYANT, Mr. BILBRAY, Mr. RAMSTAD, Mr. SHAYS, Mr. CAMPBELL, and Mr. VITTER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend part C of title XVIII to stabilize the Medicare+Choice Program by improving the methodology for the calculation of Medicare+Choice payment rates, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Medicare Beneficiaries’ Choice Stabilization Act of
4 2000”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of payment floor for Medicare+Choice payment rates after applying risk-adjustment methodology.
- Sec. 3. Change in application of budget neutrality adjustment for 2001 and 2002.
- Sec. 4. Increase in national per capita Medicare+Choice growth percentage in 2001 and 2002.
- Sec. 5. Increasing minimum payment amount.
- Sec. 6. Allowing movement to 50:50 percent blend in 2002.
- Sec. 7. Increased update for payment areas with only one or no Medicare+Choice contracts.
- Sec. 8. Permitting higher negotiated rates in certain Medicare+Choice payment areas below national average.
- Sec. 9. 10-year phase in of risk adjustment based on data from all settings.
- Sec. 10. Delay from July to November, 2000 in deadline for offering and withdrawing Medicare+Choice plans for 2001.
- Sec. 11. Miscellaneous regulatory changes.

7 **SEC. 2. ESTABLISHMENT OF PAYMENT FLOOR FOR**
8 **MEDICARE+CHOICE PAYMENT RATES AFTER**
9 **APPLYING RISK-ADJUSTMENT METHOD-**
10 **ODOLOGY.**

11 (a) IN GENERAL.—Section 1853(c)(1) of the Social
12 Security Act (42 U.S.C. 1395w–23(c)(1)) is amended—

- 13 (1) in the matter preceding subparagraph (A),
- 14 by striking ‘or (C)’ and inserting ‘(C), or (D)’; and
- 15 (2) by adding at the end the following new sub-
- 16 paragraph:

1 “(D) DEMOGRAPHICALLY ADJUSTED FEE-
2 FOR-SERVICE PER CAPITA EXPENDITURES.—

3 “(i) IN GENERAL.—For 2001 and
4 each subsequent year, 90 percent of the
5 adjusted average per capita cost for the
6 year for the Medicare+Choice payment
7 area determined by the Secretary based
8 upon the rule specified under paragraph
9 (4) of section 1876(a) and calculated with-
10 out regard to the adjustment under para-
11 graph (1)(C) of such section.

12 “(ii) SPECIAL RULE FOR RISK AD-
13 JUSTMENT.—For purposes of applying risk
14 adjustment to the payment amount deter-
15 mined under this subparagraph for a de-
16 mographic class, the risk adjustment for
17 such demographic class shall be deter-
18 mined under the methodology applied by
19 the Secretary under section 1876(a)(4)
20 without regard to subsection (a)(3) of this
21 section.”.

22 (b) CONTINUATION OF COMPUTATION OF AAPCC
23 DATA.—Section 1853(b) of such Act (42 U.S.C. 1395w-
24 23(b)) is amended by adding at the end the following new
25 paragraph:

1 “(4) CONTINUED COMPUTATION AND PUBLICA-
 2 TION OF COUNTY-SPECIFIC PER CAPITA FEE-FOR-
 3 SERVICE EXPENDITURE INFORMATION.—Using the
 4 most recent data available, the Secretary shall pro-
 5 vide for the computation and publication, on an an-
 6 nual basis at the time of publication of the annual
 7 Medicare+Choice capitation rates, of information on
 8 the level of the average annual per capita costs (de-
 9 scribed in section 1876(a)(4)) for each
 10 Medicare+Choice payment area.”.

11 **SEC. 3. ELIMINATION OF BUDGET NEUTRALITY ADJUST-**
 12 **MENT FOR 2001 AND 2002.**

13 Section 1853(c) of the Social Security Act (42 U.S.C.
 14 1395w-23(c)) is amended—

15 (1) in paragraph (1)(A) in the matter following
 16 clause (ii), by inserting “for a year (other than 2001
 17 or 2002)” after “multiplied”; and

18 (2) in paragraph (5), by inserting “(other than
 19 2001 or 2002)” after “for each year”.

20 **SEC. 4. INCREASE IN NATIONAL PER CAPITA**
 21 **MEDICARE+CHOICE GROWTH PERCENTAGE**
 22 **IN 2001 AND 2002.**

23 Section 1853(c)(6)(B) of the Social Security Act (42
 24 U.S.C. 1395w-23(c)(6)(B)) is amended—

1 (1) in clause (iv), by striking “for 2001, 0.5
2 percentage points” and inserting “for 2001, 0 per-
3 centage points”; and

4 (2) in clause (v), by striking “for 2002, 0.3 per-
5 centage points” and inserting “for 2002, 0 percent-
6 age points”.

7 **SEC. 5. INCREASING MINIMUM PAYMENT AMOUNT.**

8 (a) IN GENERAL.—Section 1853(c)(1)(B)(ii) of the
9 Social Security Act (42 U.S.C. 1395w–23(c)(1)(B)(ii)) is
10 amended—

11 (1) by striking “(ii) For a succeeding year” and
12 inserting “(ii)(I) Subject to subclause (II), for a suc-
13 ceeding year”; and

14 (2) by adding at the end the following new sub-
15 clause:

16 “(II) For 2001 for any of the 50
17 States and the District of Columbia,
18 \$450.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) apply to years beginning with 2001.

21 **SEC. 6. ALLOWING MOVEMENT TO 50:50 PERCENT BLEND IN**
22 **2002.**

23 Section 1853(c)(2) of the Social Security Act (42
24 U.S.C. 1395w–23(c)(2)) is amended—

1 (1) by striking the period at the end of sub-
 2 paragraph (F) and inserting a semicolon; and

3 (2) by adding after and below subparagraph
 4 (F) the following:

5 “except that a Medicare+Choice organization may
 6 elect to apply subparagraph (F) (rather than sub-
 7 paragraph (E)) for 2001 and for 2002.”.

8 **SEC. 7. INCREASED UPDATE FOR PAYMENT AREAS WITH**
 9 **ONLY ONE OR NO MEDICARE+CHOICE CON-**
 10 **TRACTS.**

11 (a) IN GENERAL.—Section 1853(c)(1)(C)(ii) of the
 12 Social Security Act (42 U.S.C. 1395w–23(c)(1)(C)(ii)) is
 13 amended—

14 (1) by striking “(ii) For a subsequent year”
 15 and inserting “(ii)(I) Subject to subclause (II), for
 16 a subsequent year”; and

17 (2) by adding at the end the following new sub-
 18 clause:

19 “(II) During 2001, 2002, 2003, 2004,
 20 and 2005, in the case of a
 21 Medicare+Choice payment area in which
 22 there is no more than one contract entered
 23 into under this part as of July 1 before the
 24 beginning of the year, 102.5 percent of the
 25 annual Medicare+Choice capitation rate

1 under this paragraph for the area for the
 2 previous year.”.

3 (b) CONSTRUCTION.—The amendments made by sub-
 4 section (a) do not affect the payment of a first time bonus
 5 under section 1853(i) of the Social Security Act (42
 6 U.S.C. 1395w–23(i)).

7 **SEC. 8. PERMITTING HIGHER NEGOTIATED RATES IN CER-**
 8 **TAIN MEDICARE+CHOICE PAYMENT AREAS**
 9 **BELOW NATIONAL AVERAGE.**

10 Section 1853(c)(1) of the Social Security Act (42
 11 U.S.C. 1395w–23(c)(1)) is amended—

12 (1) in the matter before subparagraph (A), by
 13 striking “or (C)” and inserting “(C), or (D)”; and

14 (2) by adding at the end the following new sub-
 15 paragraph:

16 “(D) PERMITTING HIGHER RATES
 17 THROUGH NEGOTIATION.—

18 “(i) IN GENERAL.—For each year be-
 19 ginning with 2004, in the case of a
 20 Medicare+Choice payment area for which
 21 the Medicare+Choice capitation rate under
 22 this paragraph would otherwise be less
 23 than the United States per capita cost
 24 (USPCC), as calculated by the Secretary,
 25 a Medicare+Choice organization may ne-

1 negotiate with the Secretary an annual per
2 capita rate that—

3 “(I) reflects an annual rate of in-
4 crease up to the rate of increase speci-
5 fied in clause (ii);

6 “(II) takes into account audited
7 current data supplied by the organiza-
8 tion on its adjusted community rate
9 (as defined in section 1854(f)(3)); and

10 “(III) does not exceed the United
11 States per capita cost, as projected by
12 the Secretary for the year involved.

13 “(ii) MAXIMUM RATE DESCRIBED.—
14 The rate of increase specified in this clause
15 for a year is the rate of inflation in private
16 health insurance for the year involved, as
17 projected by the Secretary, and includes
18 such adjustments as may be necessary—

19 “(I) to reflect the demographic
20 characteristics in the population under
21 this title; and

22 “(II) to eliminate the costs of
23 prescription drugs.

24 “(iii) ADJUSTMENTS FOR OVER OR
25 UNDER PROJECTIONS.—If subparagraph is

1 applied to an organization and payment
2 area for a year, in applying this subpara-
3 graph for a subsequent year the provisions
4 of paragraph (6)(C) shall apply in the
5 same manner as such provisions apply
6 under this paragraph.”.

7 **SEC. 9. 10-YEAR PHASE IN OF RISK ADJUSTMENT BASED ON**
8 **DATA FROM ALL SETTINGS.**

9 Section 1853(a)(3)(C)(ii) of the Social Security Act
10 (42 U.S.C. 1395w-23(c)(1)(C)(ii)) is amended—

11 (1) by striking the period at the end of sub-
12 clause (II) and inserting a semicolon; and

13 (2) by adding after and below subclause (II) the
14 following:

15 “and, beginning in 2004, insofar as such
16 risk adjustment is based on data from all
17 (or substantially all) settings, the method-
18 ology shall be phased in equal increments
19 over a 10 year period, beginning with 2004
20 or (if later) the first year in which such
21 data is used.”.

1 **SEC. 10. DELAY FROM JULY TO NOVEMBER, 2000 IN DEAD-**
 2 **LINE FOR OFFERING AND WITHDRAWING**
 3 **MEDICARE+CHOICE PLANS FOR 2001.**

4 Notwithstanding any other provision of law, the dead-
 5 line for a Medicare+Choice organization to withdraw the
 6 offering of a Medicare+Choice plan under part C of title
 7 XVIII of the Social Security Act (or otherwise to submit
 8 information required for the offering of such a plan) for
 9 2001 is delayed from July 1, 2000, to November 1, 2000,
 10 and any such organization that provided notice of with-
 11 drawal of such a plan during 2000 before the date of the
 12 enactment of this Act may rescind such withdrawal at any
 13 time before November 1, 2000.

14 **SEC. 11. MISCELLANEOUS REGULATORY CHANGES.**

15 (a) PROHIBITION ON REQUIREMENT TO SUBMIT EN-
 16 COUNTER DATA.—Section 1853(a)(3)(B) of the Social Se-
 17 curity Act (42 U.S.C. 1395w–23(a)(3)(B)) is amended—

18 (1) by designating the matter following “DATA
 19 COLLECTION” as a clause (i) with appropriate inden-
 20 tation and the heading “IN GENERAL”; and

21 (2) by adding at the end the following new
 22 clauses:

23 “(ii) ISSUANCE OF DATA SUBMISSION
 24 REQUIREMENTS.—The Secretary may not
 25 require under clause (i) the submission of
 26 encounter data to support a risk adjust-

1 ment methodology based on all (or sub-
2 stantially all) settings until a reasonable
3 time after the Secretary issues the com-
4 plete requirements for data submission.
5 Such requirements shall be limited to the
6 minimum data elements necessary to sup-
7 port the risk adjustment methodology.
8 Such system shall be designed to accept
9 the required minimum data elements in a
10 form and manner compatible with
11 Medicare+Choice organizations' oper-
12 ations.

13 “(iii) EVALUATION.—In issuing such
14 data submission requirements, the Sec-
15 retary must include an evaluation by an
16 outside, independent actuary of whether
17 the proposed data elements are the min-
18 imum necessary to support the risk adjust-
19 ment methodology.”.

20 (b) POST-STABILIZATION GUIDELINES.—Section
21 1852(d)(2) of such Act (42 U.S.C. 1395w-22(d)(2)) is
22 amended by adding at the end the following: “In pre-
23 scribing such guidelines—

24 “(A) post-stabilization care shall be limited
25 to care related to treatment of the condition

1 that precipitated the provision of emergency
2 services; and

3 “(B) the provider of emergency services is
4 not authorized to provide post-stabilization care
5 unless—

6 “(i) the Medicare+Choice organiza-
7 tion has been notified as soon as prac-
8 ticable, but not later than 2 hours after
9 stabilization, in advance of the request to
10 provide such care;

11 “(ii) the organization has either ap-
12 proved the request or not responded to
13 such request within a reasonable period (of
14 at least 3 hours) after it has been notified;
15 and

16 “(iii) the emergency services provider
17 maintains a written documentation con-
18 cerning the notice and the organization’s
19 response to such notice.”.

20 (c) ENROLLMENT PROCESS.—

21 (1) ALLOWING ON-LINE ENROLLMENT.—Sec-
22 tion 1851(c)(2) of such Act (42 U.S.C. 1395w-
23 21(c)(2)) is amended by adding at the end the fol-
24 lowing:

1 “(C) ON-LINE APPLICATIONS.—Such proc-
2 ess shall permit the filing of appropriate elec-
3 tion forms under subparagraphs (A) and (B) to
4 be done through electronic means (including use
5 of the Internet).”.

6 (2) MORATORIUM ON CHANGES IN
7 MEDICARE+CHOICE ENROLLMENT RULES.—The
8 Secretary of Health and Human Services shall not
9 make any changes in the enrollment and
10 disenrollment instructions and related materials (in-
11 cluding operational policy letters and evidence of
12 coverage) under the Medicare+Choice program
13 under part C of title XVIII of the Social Security
14 Act between the date of the enactment of this Act
15 and January 1, 2002, except as may be specifically
16 and only required to comply with a change in stat-
17 ute.

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